IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELATE CIVIL JURISDICTION

WRIT PETITION NO.6960 OF 2004

Mrs. Lilavati Dattatray Bharekar & Ors...Petitioners

Vs.

Uco Bank, Pune ..Respondent

Mr.Anil V. Anturkar, Adv. for Petitioners
Mr.V.G.Mujumdar, Adv.for Respondent

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 14TH FEBRUARY, 2005.

P.C.

. Rule. Heard forthwith.

. Proceedings against the petitioners before the Debt Recovery Tribunal, proceeded Ex-parte on account of the failure by the petitioners herein to appear before the Tribunal. An application was made to set aside the said order. The Tribunal found the cause shown was not sufficient and consequently dismissed the application for setting aside the Ex-parte order by its order dated 18th November, 2002.

. An appeal came to be preferred. That has also been dismissed and hence, the present petition.

. Counsel appearing for petitioners submits that the reason for non-appearance by petitioners

was on account of the peculiar incident in the family on that particular day and as such they could not remain present. In the circumstances it is pointed out that there was sufficient cause for non appearance and as such this Court be pleased to set aside the order and an opportunity be given to the petitioners.

. On behalf of respondent Bank learned Counsel submits that there is no defence in the matter and as such this is not a fit case where this Court should exercise its extra ordinary jurisdiction apart from the fact that the cause shown was found to be not sufficient by the D.R.T. and also by the Appellate Authority.

. Having heard learned Counsel and the fact that the petitioners desire to participate in the proceedings, in our opinion an opportunity can be given to them. In the light of that the following order:-

(i). The impugned orders dated 22nd February, 2004 and of the Appellate Authority and also the order dated 18th November, 2002 dismissing the application for setting aside Ex-Parte order dated 21st February, 2002 of the D.R.T. are set aside provided the petitioners deposit an amount of Rs.10

lacs on or before 9th March, 2005 before D.R.T. On such deposit petition made absolute and on failure to deposit, petition to stand dismissed. It will be open to the respondent to apply to D.R.T. for withdrawal of the amount in which that D.R.T. to pay the said amount to the respondent without any securitising.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)